
Introduced by Senator Migden

December 12, 2006

An act to amend Section 827 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as introduced, Migden. Dependent children and wards of the juvenile court: case file confidentiality.

Existing law requires the case file of a dependent child or ward of the juvenile court to be kept confidential, except as specified.

This bill would make technical, nonsubstantive changes to these case file confidentiality provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 827 of the Welfare and Institutions Code
2 is amended to read:
3 827. (a) (1) Except as provided in Section 828, a case file
4 may be inspected only by the following:
5 (A) Court personnel.
6 (B) The district attorney, a city attorney, or city prosecutor
7 authorized to prosecute criminal or juvenile cases under state law.
8 (C) The minor who is the subject of the proceeding.
9 (D) ~~His or her~~ *The minor's* parents or guardian.
10 (E) The attorneys for the parties, judges, referees, other hearing
11 officers, probation officers, and law enforcement officers who are

1 actively participating in criminal or juvenile proceedings involving
2 the minor.

3 (F) The superintendent or designee of the school district where
4 the minor is enrolled or attending school.

5 (G) Members of the child protective agencies as defined in
6 Section 11165.9 of the Penal Code.

7 (H) The State Department of Social Services to carry out its
8 duties pursuant to Division 9 (commencing with Section 10000),
9 and Part 5 (commencing with Section 7900) of Division 12, of the
10 Family Code to oversee and monitor county child welfare agencies,
11 children in foster care or receiving foster care assistance, and
12 out-of-state placements.

13 (I) Authorized legal staff or special investigators who are peace
14 officers who are employed by, or who are authorized
15 representatives of, the State Department of Social Services, as
16 necessary to the performance of their duties to inspect, license,
17 and investigate community care facilities, and to ensure that the
18 standards of care and services provided in those facilities are
19 adequate and appropriate and to ascertain compliance with the
20 rules and regulations to which the facilities are subject. The
21 confidential information shall remain confidential except for
22 purposes of inspection, licensing, or investigation pursuant to
23 Chapter 3 (commencing with Section 1500) and Chapter 3.4
24 (commencing with Section 1596.70) of Division 2 of the Health
25 and Safety Code, or a criminal, civil, or administrative proceeding
26 in relation thereto. The confidential information may be used by
27 the State Department of Social Services in a criminal, civil, or
28 administrative proceeding. The confidential information shall be
29 available only to the judge or hearing officer and to the parties to
30 the case. Names that are confidential shall be listed in attachments
31 separate to the general pleadings. The confidential information
32 shall be sealed after the conclusion of the criminal, civil, or
33 administrative hearings, and may not subsequently be released
34 except in accordance with this subdivision. If the confidential
35 information does not result in a criminal, civil, or administrative
36 proceeding, it shall be sealed after the State Department of Social
37 Services decides that no further action will be taken in the matter
38 of suspected licensing violations. Except as otherwise provided in
39 this subdivision, confidential information in the possession of the

1 State Department of Social Services may not contain the name of
2 the minor.

3 (J) Members of children’s multidisciplinary teams, persons, or
4 agencies providing treatment or supervision of the minor.

5 (K) A judge, commissioner, or other hearing officer assigned
6 to a family law case with issues concerning custody or visitation,
7 or both, involving the minor, and the following persons, if actively
8 participating in the family law case: a family court mediator
9 assigned to a case involving the minor pursuant to Article 1
10 (commencing with Section 3160) of Chapter 11 of Part 2 of
11 Division 8 of the Family Code, a court-appointed evaluator or a
12 person conducting a court-connected child custody evaluation,
13 investigation, or assessment pursuant to Section 3111 or 3118 of
14 the Family Code, and counsel appointed for the minor in the family
15 law case pursuant to Section 3150 of the Family Code. Prior to
16 allowing counsel appointed for the minor in the family law case
17 to inspect the file, the court clerk may require counsel to provide
18 a certified copy of the court order appointing him or her as the
19 minor’s counsel.

20 (L) A court-appointed investigator who is actively participating
21 in a guardianship case involving a minor pursuant to Part 2
22 (commencing with Section 1500) of Division 4 of the Probate
23 Code and acting within the scope of his or her duties in that case.

24 (M) A local child support agency for the purpose of establishing
25 paternity and establishing and enforcing child support orders.

26 (N) Juvenile justice commissions as established under Section
27 225. The confidentiality provisions of Section 10850 shall apply
28 to a juvenile justice commission and its members.

29 (O) Any other person who may be designated by court order of
30 the judge of the juvenile court upon filing a petition.

31 (2) Notwithstanding any other law and subject to subparagraph
32 (A) of paragraph (3), juvenile case files, except those relating to
33 matters within the jurisdiction of the court pursuant to Section 601
34 or 602, that pertain to a deceased child who was within the
35 jurisdiction of the juvenile court pursuant to Section 300, shall be
36 released to the public pursuant to an order by the juvenile court
37 after a petition has been filed and interested parties have been
38 afforded an opportunity to file an objection. Any information
39 relating to another child or ~~which~~ *that* could identify another child,
40 except for information about the deceased, shall be redacted from

1 the juvenile case file prior to release, unless a specific order is
2 made by the juvenile court to the contrary. Except as provided in
3 this paragraph, the presiding judge of the juvenile court may issue
4 an order prohibiting or limiting access to the juvenile case file, or
5 any portion thereof, of a deceased child only upon a showing that
6 release of the juvenile case file or any portion thereof is detrimental
7 to the safety, protection, or physical or emotional well-being of
8 another child who is directly or indirectly connected to the juvenile
9 case that is the subject of the petition.

10 (3) Access to juvenile case files pertaining to matters within the
11 jurisdiction of the juvenile court pursuant to Section 300 shall be
12 limited as follows:

13 (A) If a juvenile case file, or any portion thereof, is privileged
14 or confidential pursuant to any other state law or federal law or
15 regulation, the requirements of that state law or federal law or
16 regulation prohibiting or limiting release of the juvenile case file
17 or any portions thereof shall prevail. Unless a person is listed in
18 subparagraphs (A) to (N), inclusive, of paragraph (1) and is entitled
19 to access under the other state law or federal law or regulation
20 without a court order, all those seeking access, pursuant to other
21 authorization, to portions of, or information relating to the contents
22 of, juvenile case files protected under another state law or federal
23 law or regulation, shall petition the juvenile court. The juvenile
24 court may only release the portion of, or information relating to
25 the contents of, juvenile case files protected by another state law
26 or federal law or regulation if disclosure is not detrimental to the
27 safety, protection, or physical or emotional well-being of a child
28 who is directly or indirectly connected to the juvenile case that is
29 the subject of the petition. This paragraph shall not be construed
30 to limit the ability of the juvenile court to carry out its duties in
31 conducting juvenile court proceedings.

32 (B) Prior to the release of the juvenile case file or any portion
33 thereof, the court shall afford due process, including a notice of
34 and an opportunity to file an objection to the release of the record
35 or report to all interested parties.

36 (4) A juvenile case file, any portion thereof, and information
37 relating to the content of the juvenile case file, may not be
38 disseminated by the receiving agencies to any persons or agencies,
39 other than those persons or agencies authorized to receive
40 documents pursuant to this section. Further, a juvenile case file,

1 any portion thereof, and information relating to the content of the
2 juvenile case file, may not be made as an attachment to any other
3 documents without the prior approval of the presiding judge of the
4 juvenile court, unless it is used in connection with and in the course
5 of a criminal investigation or a proceeding brought to declare a
6 person a dependent child or ward of the juvenile court.

7 (b) (1) While the Legislature reaffirms its belief that juvenile
8 court records, in general, should be confidential, it is the intent of
9 the Legislature in enacting this subdivision to provide for a limited
10 exception to juvenile court record confidentiality to promote more
11 effective communication among juvenile courts, family courts,
12 law enforcement agencies, and schools to ensure the rehabilitation
13 of juvenile criminal offenders as well as to lessen the potential for
14 drug use, violence, other forms of delinquency, and child abuse.

15 (2) Notwithstanding subdivision (a), written notice that a minor
16 enrolled in a public school, kindergarten to grade 12, inclusive,
17 has been found by a court of competent jurisdiction to have
18 committed any felony or any misdemeanor involving curfew,
19 gambling, alcohol, drugs, tobacco products, carrying of weapons,
20 a sex offense listed in Section 290 of the Penal Code, assault or
21 battery, larceny, vandalism, or graffiti shall be provided by the
22 court, within seven days, to the superintendent of the school district
23 of attendance. Written notice shall include only the offense found
24 to have been committed by the minor and the disposition of the
25 minor's case. This notice shall be expeditiously transmitted by the
26 district superintendent to the principal at the school of attendance.
27 The principal shall expeditiously disseminate the information to
28 those counselors directly supervising or reporting on the behavior
29 or progress of the minor. In addition, the principal shall disseminate
30 the information to any teacher or administrator directly supervising
31 or reporting on the behavior or progress of the minor whom the
32 principal believes needs the information to work with the pupil in
33 an appropriate fashion, to avoid being needlessly vulnerable or to
34 protect other persons from needless vulnerability.

35 Any information received by a teacher, counselor, or
36 administrator under this subdivision shall be received in confidence
37 for the limited purpose of rehabilitating the minor and protecting
38 students and staff, and shall not be further disseminated by the
39 teacher, counselor, or administrator, except insofar as
40 communication with the juvenile, his or her parents or guardians,

1 law enforcement personnel, and the juvenile’s probation officer
2 is necessary to effectuate the juvenile’s rehabilitation or to protect
3 students and staff.

4 An intentional violation of the confidentiality provisions of this
5 paragraph is a misdemeanor punishable by a fine not to exceed
6 five hundred dollars (\$500).

7 (3) If a minor is removed from public school as a result of the
8 court’s finding described in subdivision (b), the superintendent
9 shall maintain the information in a confidential file and shall defer
10 transmittal of the information received from the court until the
11 minor is returned to public school. If the minor is returned to a
12 school district other than the one from which the minor came, the
13 parole or probation officer having jurisdiction over the minor shall
14 so notify the superintendent of the last district of attendance, who
15 shall transmit the notice received from the court to the
16 superintendent of the new district of attendance.

17 (c) Each probation report filed with the court concerning a minor
18 whose record is subject to dissemination pursuant to subdivision
19 (b) shall include on the face sheet the school at which the minor
20 is currently enrolled. The county superintendent shall provide the
21 court with a listing of all of the schools within each school district,
22 within the county, along with the name and mailing address of
23 each district superintendent.

24 (d) Each notice sent by the court pursuant to subdivision (b)
25 shall be stamped with the instruction: “Unlawful Dissemination
26 Of This Information Is A Misdemeanor.” Any information received
27 from the court shall be kept in a separate confidential file at the
28 school of attendance and shall be transferred to the minor’s
29 subsequent schools of attendance and maintained until the minor
30 graduates from high school, is released from juvenile court
31 jurisdiction, or reaches the age of 18 years, whichever occurs first.
32 After that time the confidential record shall be destroyed. At any
33 time after the date by which a record required to be destroyed by
34 this section should have been destroyed, the minor or his or her
35 parent or guardian shall have the right to make a written request
36 to the principal of the school that the minor’s school records be
37 reviewed to ensure that the record has been destroyed. Upon
38 completion of any requested review and no later than 30 days after
39 the request for the review was received, the principal or his or her
40 designee shall respond in writing to the written request and either

1 shall confirm that the record has been destroyed or, if the record
2 has not been destroyed, shall explain why destruction has not yet
3 occurred.

4 Except as provided in paragraph (2) of subdivision (b), no
5 liability shall attach to any person who transmits or fails to transmit
6 any notice or information required under subdivision (b).

7 (e) For purposes of this section, a “juvenile case file” means a
8 petition filed in any juvenile court proceeding, reports of the
9 probation officer, and all other documents filed in that case or
10 made available to the probation officer in making his or her report,
11 or to the judge, referee, or other hearing officer, and thereafter
12 retained by the probation officer, judge, referee, or other hearing
13 officer.